



UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of: : Gloria M. Hale
Marcus K. Williams : Examiner
For: Protective Undergarment :
for a Football Player : Art Unit No. 3765
Serial No. 10/679,088 :
Filed: October 3, 2003 :

BRIEF

Real Party in Interest

Marcus K. Williams is the real party in interest.

Related Appeals and Interferences

There are no other related appeals and no related interferences.

Status of Claims

There are three claims, Claims 1, 2 and 3. Claims 1 and 2 have been cancelled. Claim 3 has been finally rejected. Claim 3 is being appealed.

Status of Amendments

The amendment that the applicants filed subsequent to final rejection has not been entered by the Examiner.

Summary of Claimed Subject Matter

A protective undergarment for a football player includes an undergarment being formed out of a thin, stretchable fabric and having an internal surface. The undergarment is a full body suit with a plurality of pockets. The internal pockets are disposed on the internal surface of the undergarment so

that one of the pockets has a corresponding shape to one of a plurality of protective pads. Each protective pad corresponds in shape to the shape to one of the pockets and may be inserted therein.

Grounds of Rejection

The Examiner has objected to claim 3 because of an informality. The applicant has amended claim 3 to correct this informality.

The Examiner has rejected claim 3 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to point out and distinctly claim the subject matter which the applicant regards as the invention. The applicant has amended claim to overcome this rejection.

The Examiner has rejected claim 3 under 35 U.S.C. 103(a) as being unpatentable over Sessoms (U.S. Patent No. 5,388,271) in view of Ross (U.S. Patent No. 5,134,726) and McGee (U.S. Patent No. 4,089,065).

Argument

The Examiner contends that the applicant has admitted the upper and lower components of Sessoms and Ross are similar to the protective garment that he had claimed in claim 1 and that claim 3 claims the same structure and components. The applicant respectfully disagrees and contends that in drafting claim 3 he has added limitations to original claim 1. Sessoms teaches an upper torso shirt garment with arm portions and a plurality of

protective pads and does not disclose a lower torso padded garment portion.

Sessoms has pockets as does the protective garment of claim 3. Sessoms teaches an article of insulated apparel, the integral continuous parts of which include a body and appendages formed of an insulated, resilient fabric material. The article of insulated apparel further includes segmentally arranged supplemental insulation for insulating less mobile regions of a user's body, such as the upper and lower arms, and **the upper and lower legs**. The midriff and the upper torso may be insulated as well. By providing segmentally arranged supplemental insulation, that is, discontinuity in supplemental insulation over more mobile regions of the user's body, such as, for instance, the shoulder, elbow, and wrist regions, the user is permitted to move more freely. The article of insulated apparel includes a body and appendages that are continuously and integrally formed of an insulated, resilient fabric material. Segmentally arranged supplemental insulation for insulating less mobile regions of the user's body, such as the user's upper and lower, arm, **leg**, and torso regions, is supported by the insulated, resilient fabric material. The segmentally arranged supplemental insulation is discontinuous over the more movable regions of the user's body, such as the shoulder, elbow, and wrist regions, thus permitting the user to move these regions with greater freedom. **The segmentally arranged supplemental**

insulation is discontinuous over regions of the user's body which may be protected by protective gear, such as shoulder pads, so as not to interfere with the fit of the protective gear. The insulated, resilient fabric material insulates the mobile regions as well as the less mobile regions of the user's body against the cold ambient environment. The segmentally arranged supplemental insulation provides insulation against the cold ambient environment in addition to the insulated, resilient fabric material.

Alternatively, a highly resilient, lightweight, fabric is employed in substitution of the insulated, resilient fabric material in areas of the garment which are associated with the more mobile regions of the user's body, such as the shoulder and elbow regions, thereby providing even greater mobility.

Yet as another alternative, the entire undergarment may be covered with a nylon material to give it a wind breaking capability and thus, reduce the risk of wind chill. Ross teaches a pair of sports pants with protective pads includes a trunk and legs formed of elastically stretchable material with pockets in at least the hip and knee areas, and legs terminating in stirrup ends. At least groin, knee and hip areas have openable and closable pockets on interior surfaces of the pants for receipt of groin pads, hip pads, and knee pads of resilient foam material which are removable and replaceable in the pockets for protection of the wearer. The pads are removable for washing.

Ross teaches a padded pair of spandex undergarment pants with a plurality of internal pockets and protective pads for insertion within the pockets therein. Claim 3 positively claims placement of the pads and pocket locations and does not claim injury locations. Sessoms and Ross do not specifically teach garments to cover the entire body of the wearer as being integral. McGee teaches constructing an integral padded protective garment to protect the entire body of a wearer from athletic activities and falls or to wear the garments as separate shirts jackets or pants as desired. It would have been obvious to one having ordinary skill in the art at the time the invention to modify the garments of Sessoms and Ross and to construct them in an integral jumpsuit form as taught by McGee. It is not well known to construct garment components into one integral garment for ease in donning and doffing the garment so that the garment is secured onto the wearer during sports activities. McGee is only relied up for the one piece garment construction and not the material specifics of the garment.

Dated: May 23, 2008

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'W. Edward Johansen', written over a horizontal line.

W. Edward Johansen

Registration No. 26,744

APPENDIX

Listing of claims:

1. Claim 1 is cancelled.
2. Claim 2 is cancelled.
3. A protective undergarment for a football player who has arms, an upper torso, a lower torso and legs, said protective undergarment comprising:
 - a. an undergarment being formed out of a thin, stretchable fabric and having an internal surface wherein said undergarment is a full body suit covering the arms, the upper torso, the lower torso and the legs of the football player;
 - b. a plurality of pockets wherein said plurality of internal pockets are disposed on said internal surface of said undergarment so that one of said pockets has a corresponding shape and is disposed in a position to cover one of the arms, the upper torso, the lower torso and the legs of the football player; and
 - c. a plurality of protective pads each of which corresponds in shape to the shape to one of said pockets and may be inserted therein whereby the football player is protected not only from injuries to his knees, his hip, his back, his tailbone, his ribs, his elbow and his shoulder, but also from abrasion and other internal injuries.